

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the  
Liquidation of Bernard L. Madoff Investment  
Securities LLC,

Plaintiff,

v.

NAIDOT & CO. and BESSEMER TRUST  
COMPANY,

Defendants.

Adv. Pro. No. 11-02733 (CGM)

**STIPULATION AND ORDER TO WAIVE ARGUMENT**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-III, and the substantively consolidated Chapter 7 estate of Bernard L. Madoff, on the one hand, and defendants Naidot & Co. and Bessemer Trust Company (“Defendants”, and together with the Trustee, the “Parties”), on the other, by and through their respective, undersigned counsel, hereby stipulate and agree as follows:

**WHEREAS**, on October 20, 2022, Defendants filed a joint motion to dismiss the Trustee’s amended complaint, ECF No. 102, with a supporting memorandum of law, ECF No. 103 (the “Motion”); on December 19, 2022, the Trustee filed an opposition to the Motion, ECF No. 106 (the “Opposition”); and on January 19, 2023, Defendants filed a reply in further support of the Motion, ECF No. 109 (the “Reply”, and together with the Motion and Opposition, the “Briefing”);

**WHEREAS**, pursuant to an amended notice of hearing, ECF No. 105, the Court scheduled a hearing to consider the Motion to be held on February 15, 2023, at 10:00 am; and

**WHEREAS**, the Parties have conferred and agree to rest on their papers and waive oral argument on the Motion.

**IT IS HEREBY STIPULATED AND AGREED**, by the Parties, and **SO ORDERED**, by the Court:

- 1.) The Court will not hear oral argument on the Motion, and thus the hearing scheduled for February 15, 2023, at 10:00 am, to consider the Motion is hereby cancelled and removed from the Court’s calendar.
- 2.) The Parties request that the Court issue its ruling based on the Briefing.
- 3.) The Parties otherwise reserve all rights, arguments, objections and defenses they may have, and entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

*[Remainder of Page Intentionally Left Blank]*

Dated: February 9, 2023

/s/ Howard L. Simon

**Windels Marx Lane & Mittendorf, LLP**

156 West 56th Street  
New York, New York 10019  
Telephone: (212) 237-1000  
Facsimile: (212) 262-1215  
Howard L. Simon  
hsimon@windelsmarx.com  
Kim M. Longo  
klongo@windelsmarx.com  
John J. Tepedino  
jtepedino@windelsmarx.com

*Special Counsel for Irving H. Picard, Trustee  
for the Substantively Consolidated SIPA  
Liquidation of Bernard L. Madoff Investment  
Securities LLC and the Chapter 7 Estate of  
Bernard L. Madoff*

**SO ORDERED.**

/s/ James V. Masella, III

**Patterson Belknap Webb & Tyler LLP**

1133 Avenue of the Americas  
New York, NY 10036  
Telephone: (212) 336-2000  
Facsimile: (212) 336-2222  
James V. Masella, III  
jmasella@pbwt.com

*Attorneys for Defendants Naidot & Co. and  
Bessemer Trust Company*

**Dated: February 10, 2023  
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris  
U.S. Bankruptcy Judge**